

application. Specifically, it can be seen in Fig. 1 that the bag described in the drawings has end sections which each comprise a section "... of thermoplastic sheeting sealed together to define a pair of facing bag walls..."

Furthermore, it is clear that: "...said end sections being spaced from said plastic mesh, one of said end sections defining an unfolded pair of separate, flat thermoplastic sheets." The other end section can be seen to be made from a folded, single thermoplastic sheet (16). Such a structure is capable of being manufactured on easily modified, conventional sealing equipment, where both ends of the plastic bag comprise lengths of plastic sheeting without any plastic mesh, which mesh is limited to the central area of the bag.

Referring to the requirement for restriction, applicant's attorney confirms the provisional election to prosecute Claims 1 through 15.

However, applicant's attorney traverses the restriction of Claims 16, 18 - but does not traverse the restriction of Claim 19.

Claims 16 through 18, like Claims 1 through 15, are drawn to a bag which comprises a mesh sheet in the central area, having thermoplastic sheeting at the respective ends of the bag, so that the bag has two facing thermoplastic sheet walls at each respective end, but has a generally large window of mesh sheeting in the central section. This is similar in structure, although of course not exactly identical, with Claim 1, which also shows a bag having a first thermoplastic sheet and a mesh sheet sealed alongside their edges. At one end of the bag, the first thermoplastic sheet is folded over to define a pair of wall portions. Also, at the second end, the first and second thermoplastic sheets extend beyond the second end of the mesh sheet, and the mesh sheet is also spaced from the first bag

end. Thus, one has in Claim 1 a bag where the mesh sheet wall is spaced from both the first and second ends of the bag, with only thermoplastic sheets lying against each other at the bag ends.

It is submitted that Claims 1 and 16, and their dependent claims, are sufficiently close together and recite such similar structure that they should be examined together. Accordingly, reconsideration of the requirement for restriction with respect to Claims 16 to 18 is requested.

The examiner has rejected Claims 1 through 4 as anticipated by Yamagata, Japanese Patent Publication 411130089A.

Yamagata shows a container having thermoplastic sheets and a mesh sheet. However, referring to the first of the examiner's applications of Yamagata to Claim 1, the examiner states that the "second thermoplastic sheet" of Claim 1 corresponds to item 30 found in Fig. 5B of Yamagata.

Claim 1 calls for a "separate" second thermoplastic sheet having a second transverse seal line defined between it and the mesh sheet. See reference numeral 32 in the drawings of this application for the separate, second thermoplastic sheet, which is capable of being sealed to the first thermoplastic sheet along line 44, if desired, without losing the characterization of "separate," because it is not joined at the edges with the first sheet and coextensive with it.

To the contrary, in Yamagata, the examiner should note that sheet portion 30 is an integral part of the overall thermoplastic sheet 2 of the Yamagata patent. It is just an extension of sheet 2 before the point where the sheet folds over as shown in Fig. 5B. The section referred to by the examiner as closer in structure to the portion of Claim 1, which calls for the "bag comprising the first thermoplastic sheet folded over to define a pair of wall portions." It fails to show the "separate second thermoplastic sheet" of Claim 1.

Referring to the examiner's interpretation 2 of Yamagata, it is believed that the examiner is interpreting item 30 as being close to the folded over portion of plastic sheet 2. At the other end of the bag of Yamagata, in Fig. 5A, the examiner argues that a "second thermoplastic sheet (item 11)" is "... spaced from the mesh sheet (item 3) ..." (Page 7 of the office action).

This is clearly not true if item 11 is characterized as the second thermoplastic sheet. It is clearly not spaced from mesh sheet 3. See in Fig. 5A the end of mesh sheet 3 below reference numeral 11, projecting out into the area of reference numeral 8.

Perhaps the difference between Yamagata and this invention is best seen by looking the drawing of this invention. At both ends of the bag of this invention, there is an end section comprising two layers of thermoplastic sheeting, spaced from the mesh layer. This is important, in that it provides a bag design which can be manufactured with minimally modified, conventional forming and sealing equipment, where the ends of the bag are like conventional bags comprising two layers of thermoplastic sheeting. Furthermore, the examiner's two interpretations of Yamagata both fail to accurately describe a structure as defined in Claim 1 of this application.

It should be noted that Yamagata at Fig. 5 only discloses a single thermoplastic sheet extending beyond the mesh screen 3. There is a length of tape 17 which, as understood, is removed, and the end 9 of the thermoplastic sheet is folded over to close the bag in the form of an envelope, and to seal it there with adhesive 16. See paragraph 19 of the translation in support of this. When folded up, it is submitted that the bag of Yamagata still fails to conform to the requirements of amended Claim 1 because it fails to achieve the limitation "...said first and second thermoplastic sheets extending beyond said second end of the mesh sheet to lie against each other..." as shown at the top of Figs. 1 and 2 of this application, and reference numerals 32 and 36...

Accordingly, it is submitted that Claim 1 is not anticipated by Yamagata, nor are its dependent Claims 2 to 4.

The examiner has also rejected Claims 1 through 4 and 14 as anticipated by Fox, et al., U.S. Patent 6,190,044. In particular, the examiner is urged to look at Fig. 5 of Fox in light of the final lines of Claim 1,; "...said first and second thermoplastic sheets extending together beyond the second end of the mesh sheet to lie against each other." The first and second sheets can be seen by reference numerals 16, 36, and 32 in the drawings of this application, and it can be clearly seen how they extend beyond the second end of the mesh sheet at about seal line 30. Because of this, the bag of this invention has at each end pairs of solid, thermoplastic sheet portions, which facilitates the manufacture of this design on conventional bag making machinery.

To the contrary, in Fox, et al. Fig. 5, it can be plainly seen that sheet 12 (corresponding to the first thermoplastic sheet) plainly does not extend significantly beyond the mesh sheet 10 to lie against a second thermoplastic sheet, which could be analogous to portion 32 in Fox. Thus, the Fox bag does not have pairs of thermoplastic sheeting walls at opposed ends of the bag, and is not effectively manufacturable on conventional bag making machinery, having rollers that advance a pair of plastic webs, with roller contact with both webs. at the top and bottom.

Accordingly, it is submitted that Claims 1 through 4 and 14 are not anticipated by Fox 6,190,044.

The examiner has rejected Claim 5 as unpatentable over Yamagata as applied above, further in view of Shigeta, et. al. Japanese Publication 407315391A. Claim 5 is dependent upon Claim 1, and as such shares in the patentable limitations thereof over Yamagata.

The examiner has rejected Claims 6-12 as unpatentable and obvious over Yamagata, interpretation 1 as raised by the examiner. The purpose of third thermoplastic sheet 46 of this invention, as stated in the bridging paragraph of pages 4-5 of the specification, is to "provide more plastic material to the heat seal, surrounding the strands of mesh sheet 12 to provide greater strength to seal line 20". The examiner considers item 11, synthetic resin tape on the outside of the Yamagata container, as rendering obvious the third sheet 46 of this invention. Claims 6-12 are each dependant upon Claim 1, and thus share in the distinguishing limitations of that claim over Yamagata. In interpretation 1 of Yamagata, the second thermoplastic sheet, which the examiner identifies as item 11, is by no means extending beyond the mesh sheet, as Claim 1 requires. Thus, the double section of separate, solid plastic walls is not provided by Yamagata. Instead, the main thermoplastic sheet is folded over to provide an envelope type seal, contrary to Claim 1, from which these Claims 6 through 12 depend. Thus it is believed dependent Claims 6-12 are patentable along with Claim 1.

Similarly, with respect to the rejection of Claims 13 through 14 as unpatentable over Yamagata further view of Fox 6,024,489 and Cammack 5,741,076, they also are dependent upon Claim 1 and share in the patentably distinguishing characteristics thereof.

Claim 14 is also rejected as unpatentable over Yamagata as applied above, interpretation 1. Also, concerning interpretation 2, a rejection further in view of Fox and Cammack is raised. Here also, it is submitted that Claim 14, depending upon Claim 1, shares in the limitations of Claim 1. In interpretation 2, the second thermoplastic sheet 11 in Yamagata, as interpreted by the examiner, does not extend beyond the mesh sheet.

Examiner also rejects Claim 15 as unpatentable over Yamagata as applied under interpretation 1 and interpretation 2, further in view of Wells 4,099,666. As before, Claim 15 shares

in the distinguishing limitations of Claim 1, which is submitted to be patentably distinct over either interpretation of Yamagata.

The Examiner has provisionally rejected Claims 1-5 and 14 under the doctrine of obviousness-type double patenting as being unpatentable over Claims 15 through 17 of co-pending application number 09/481,211 in view of Fox et al., U.S. Patent 6,024,489.

Applicant acknowledges that Claim 15 of 09/481,211 covers a bag for containing onions or other products, comprising a solid-wall thermoplastic sheet and a mesh sheet peripherally sealed to define a bag interior. Claim 1 of this application also defines structure similar to the lower end of Fig. 1 of this application, where two portions, 26, 28 are components of first thermoplastic sheet 16, and are folded over to define a folded end of the bag which is spaced from the mesh sheet.

However, the claims of application 09/481,211 do not define the structure also called for by Claims 1 through 5 and 14, particularly the structure described in Claim 1 as "...said first and second thermoplastic sheets extending together beyond the second end of the mesh sheet to lie against each other." Claim 1 also defines the second sheet as "separate".

As previously stated, an advantage of the bag of this invention is that it has pairs of thermoplastic sheeting that can define the bag on both ends of the bag, with such thermoplastic sheeting being spaced from the mesh sheeting. Thus, bags in accordance with this invention can be manufactured by conventional bag forming equipment on which mesh sheeting has not been previously used, and in other bag configurations cannot be used. The conventional machine rollers advance the bags while being formed in a manner just as if the entire bag were made of plastic sheeting, because the central mesh sheeting is spaced from the rollers. A relatively simple addition

of seal bars permits the conventional machines to make and process the bags having partial mesh walls.

Recognizing the deficiency of application 09/481,211 to specifically describe the above, the examiner cites Fox et al., 6,024,489. However, as previously described above, in Fox et al., there is only one end of the bag which has two sheeting portions lying against each other. At the other end of the bag, as shown in Fig 5 of Fox et al., only a single sheeting layer 32 goes beyond the mesh wall of Fox et al. Plastic wall 12 terminates at the same position as the mesh wall 10.

Accordingly, Fox also fails to teach the language quoted above, which is found at Claim 1, and which provides patentable distinction over the combination raised by the Examiner under a double patenting rejection.

Claims 2 through 5 and 14 are all ultimately dependant on Claim 1, and, as such, share in the patentably distinguishing limitations thereof.

The Examiner has also rejected Claims 1 through 12, provisionally, over obviousness type double patenting based on Claims 15 through 17 of Application 09/481,211 in view of the Yamagata reference.

The deficiency of Application No. 09/481,211 to specifically disclose the invention of Claim 1 has been discussed above. When Yamagata is added, as previously discussed, there still fails to be a teaching of "...said first and second thermoplastic sheets extending together beyond the second end of the mesh sheet to lie against each other". Yamagata Fig. 5a shows only a single plastic sheet 8 extending beyond the mesh, plus a removal tape 17 that covers adhesive. Then, plastic sheet portion 8 is folded over like an envelope flap and sealed. Such a structure fails to define "a second,

separate thermoplastic sheet, with said first and second thermoplastic sheets extending together beyond the second end of the mesh sheet to lie against each other" as claim 1 requires.

Yamagata Fig. 5 shows a container which can have folded plastic sheets at both ends. The bag of this invention is capable of being formed with an open upper end, if desired, comprising a pair of plastic sheets. It may then be sealed at various places, or it may have a neck that is bunched up with a hog ring, if that is desired, as shown in Fig. 2 and as specifically described in this specification. That capability is clearly absent from the Yamagata structures.

Claims 15-17 of 09/481,211 also fail to show that limitation, as discussed above.

Claims 2 through 12 are all ultimately dependent on Claim 1, and thus share in the patentable distinctions of that claim.

The Examiner has rejected Claim 13 as unpatentable over obviousness type double patenting based on Application 09/481,211 in view of Yamagata and also Fox et al., 6,024,489.

Claim 13, being dependent, ultimately shares in the limitations of Claim 1, which is believed to be patentably distinguished for reasons discussed above. None of the references teach the specific distinctions of Claim 1 as previously discussed.

The Examiner has rejected Claim 15 based on obvious double patenting over Application 09/481,211 in view of Fox et al., further, in view of Welles U.S. Patent No. 4,099,666.

It is acknowledged to be well known that bags may be bunched together at the neck, for example with the use of a hog ring. However, Claim 15 is dependent upon Claim 1, which carries distinguishing patent limitations found in none of the cited references, as described above.



In view of the above, allowance of the amended claims of this Application is respectfully requested.

Respectfully submitted,

SEYFARTH SHAW



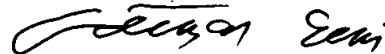
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